

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JAMES A. JOHNSON

Plaintiff,

v.

CIVIL ACTION NO. 1:17-04404

MCDOWELL COUNTY SHERIFF DEP'T, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the court is defendants' motion to dismiss the McDowell County Sheriff's Department and partial motion to dismiss Ron Blevins. See ECF No. 8. On April 3, 2018, the court granted in part and denied in part plaintiff's motion for leave to amend his complaint. ECF No. 25. On April 10, 2018, plaintiff filed his First Amended Complaint. ECF No. 26. Because plaintiff filed his First Amended Complaint,¹ defendants' motion to dismiss is **DENIED** without prejudice as moot. If they choose to do so, defendants may renew their

¹ "As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect." Young v. City of Mt. Ranier, 238 F.3d 567, 572 (4th Cir. 2001). "Thus, a defendant's previous motion to dismiss is rendered moot when a plaintiff files an amended complaint." Sennott v. Adams, C/A No. 6:13-cv-02813-GRA, 2014 WL 2434745, *3 (D.S.C. May 29, 2014) (declining to consider defendants' motion to dismiss as applicable to amended complaint "[d]ue to complexity of this case, and because Plaintiff's amendments seek to remedy the defects raised in Defendants' Motion to Dismiss").

motion to dismiss by refiling the same motion or by filing a new motion responsive to the First Amended Complaint.

The Clerk is further directed to send a copy of this Memorandum Opinion and Order to counsel of record.

IT IS SO ORDERED this 19th day of April, 2018.

Enter:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge